

EUGENIO PAZ PENA,)	No. C 12-01434 JW (PR)
Plaintiff,)	ORDER OF DISMISSAL
vs.)	
)	
SERGEANT VAN BLARCOM, et)	
al.,)	
Defendants.)	

A prisoner complaint that merely repeats pending or previously litigated claims may be considered abusive and dismissed under the authority of 28 U.S.C. § 1915A. Cf. Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citing Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988)) (duplicative in forma

1 pauperis complaint may be considered abusive and dismissed under 28 U.S.C.
2 § 1915). Because plaintiff raised and litigated the same allegations and claims
3 raised herein in Pena v. Van Blarcom, et al., No. C 11-5205-JW (PR), the instant
4 complaint is deemed duplicative and abusive under § 1915A. That plaintiff adds an
5 additional defendant in this later-filed action does not compel a different result. See
6 Bailey, 846 F.2d at 1021 (complaint repeating same allegations asserted in earlier
7 case, even if now filed against new defendants, is subject to dismissal as
8 duplicative). To the extent that plaintiff's complaint in this action seeks
9 reconsideration of the Order of Dismissal in Pena v. Van Blarcom, et al., No. C 11-
10 5205-JW (PR), plaintiff's request is without merit.

11 The complaint is DISMISSED with prejudice as duplicative under the
12 authority of 28 U.S.C. § 1915A(b). The clerk shall enter judgment in accordance
13 with this order, terminate all pending motions therein, and close the files.

14 IT IS SO ORDERED.

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16 DATED: March 26, 2012

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18 JAMES WARE
19 United States District Chief Judge
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